VERMONT

Vermont Department of Labor
Updated proposal 2/1/10

Unemployment Insurance Reform Proposal

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PLEASE NOTE: The following proposal has been updated as of February, 2010. The "need to reform" and comparison sections are the same. The projections and proposal has been updated in three ways:

1) Total average annual unemployment rates have been updated to reflect current unemployment rates and projections based on a consensus from state economist Jeff Carr and legislative economist Tom Kavet updated in December 2009.

2) Federal stimulus dollars have been included to the fullest extent.

3) The proposal for reform has been updated to reflect changes needed due to increased borrowing, federal stimulus or other economic factors.

The Need for Reform

Vermont's unemployment insurance system needs reform. After years with a healthy trust fund, the fund is now insolvent. To remain fiscally viable, the system needs some combination of more revenue and adjustments to benefit payments. Vermont workers have received more in benefits than employers have paid in taxes during 14 of the last 20 years.

The current economic downturn has exacerbated the problem. Higher unemployment will increase payments but the revenue stream will reach its current maximum potential by 2010. The trust fund model projections show benefits increasing to $190 million in 2010 with an assumption of 7.4% average unemployment. Contributions will total $69 million. Higher unemployment speeds the decline of the trust fund. The system cannot continue in its present form without severe consequences to Vermont and its economic base.

The unemployment insurance program has three goals:

- To provide partial wage replacement to workers who find themselves out of work.

- To provide economic stability for a community when major unemployment occurs.

- To encourage workers to remain in the community and to be available for work recalls by employers.

The system will only be able to pay benefits by borrowing from the federal government. Trust fund borrowing leads to much higher federal taxes on the state's employers - taxes that will exceed current combined state contributions and federal taxes.

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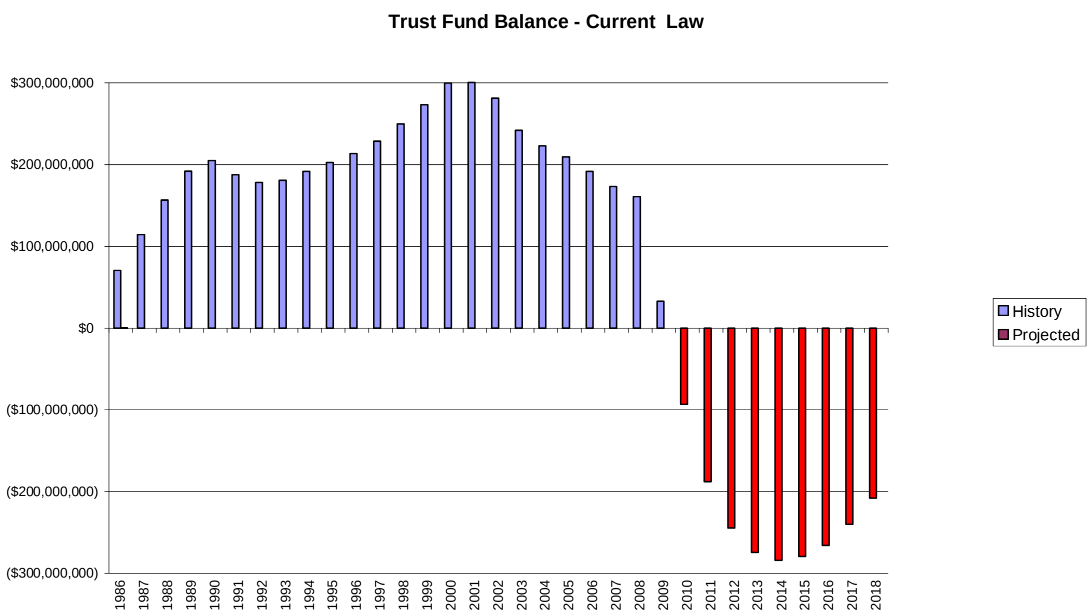
Trust Fund Projections

Trust fund projections, assuming current projected unemployment rate increases for 2010 show the fund becoming negative in February 2010.



The economists' projections assume average annual unemployment rates of 7.4% in 2010 and 7.0 % in 2011. Some quarters will exceed that projection with unemployment rates returning to 4.1% over an eight year period.

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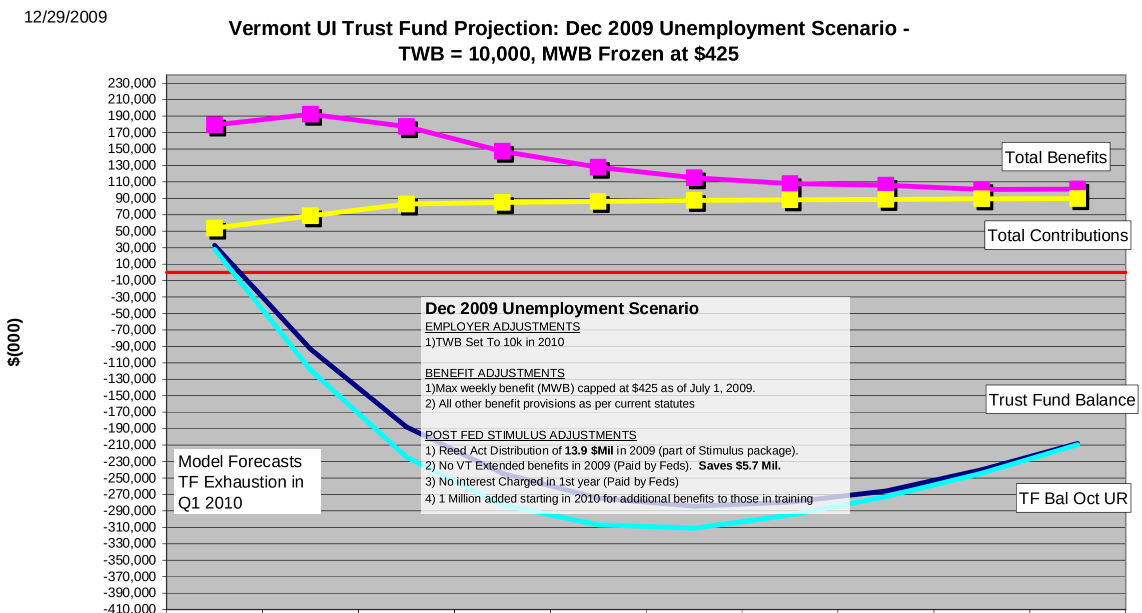
What Are the Consequences of not Reforming UI?



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Trust Fund Balance	32,777	-93,262	-187,765	-244,521	-274,455	-284,162	-279,455	-265,748	-239,981	-208,003
Total Benefits	179,293	192,159	177,215	147,173	127,918	115,124	107,935	105,796	100,740	101,364
Total Contributions	53,831	68,786	82,975	84,902	86,229	87,359	88,168	88,686	89,359	89,686
TF Bal Oct	27,821	-118,608	-224,469	-282,740	-306,931	-311,143	-295,060	-272,723	-244,262	-209,599

SOURCE: VDOL Benefit Finance Model, December, 2009

Left unaddressed, Vermont will need to borrow to pay unemployment benefits for the foreseeable future. Borrowing could exceed $284 million by 2014.

What Are the Consequences of not Reforming UI?

1. Vermont will have to take cash advances from the federal unemployment trust fund of more than $280 million even after using all available federal stimulus funds to pay benefits over the next few years. Vermont is expected to borrow in excess of $93 million to meet benefit obligations for calendar year 2010.

2. States may take cash advances from Federal unemployment trust fund. However, if the funds are not repaid by the end of September during the following year, interest will accrue. Currently the interest rate is 4.62 percent.

3. Interest payments cannot come from unemployment taxes so interest becomes a general fund obligation or other revenues would need to be used to pay the interest.

4. The current Federal tax rate is 0.8% of the first $7000 in wages. If advances are not repaid by September 30 of the year after they are borrowed, employers lose 0.3% of their federal tax credit, effectively increasing the federal tax by 50% the year after a balance remains. Each year the tax credit will decline by .03%, cumulatively, until the balance is repaid or employers are paying the full FUTA tax of 6.2%.

5. Repaying cash advances through the loss of tax credits effectively shifts costs from employers whose employees get benefits to those who do not. There is no experience rating in federal unemployment tax law.

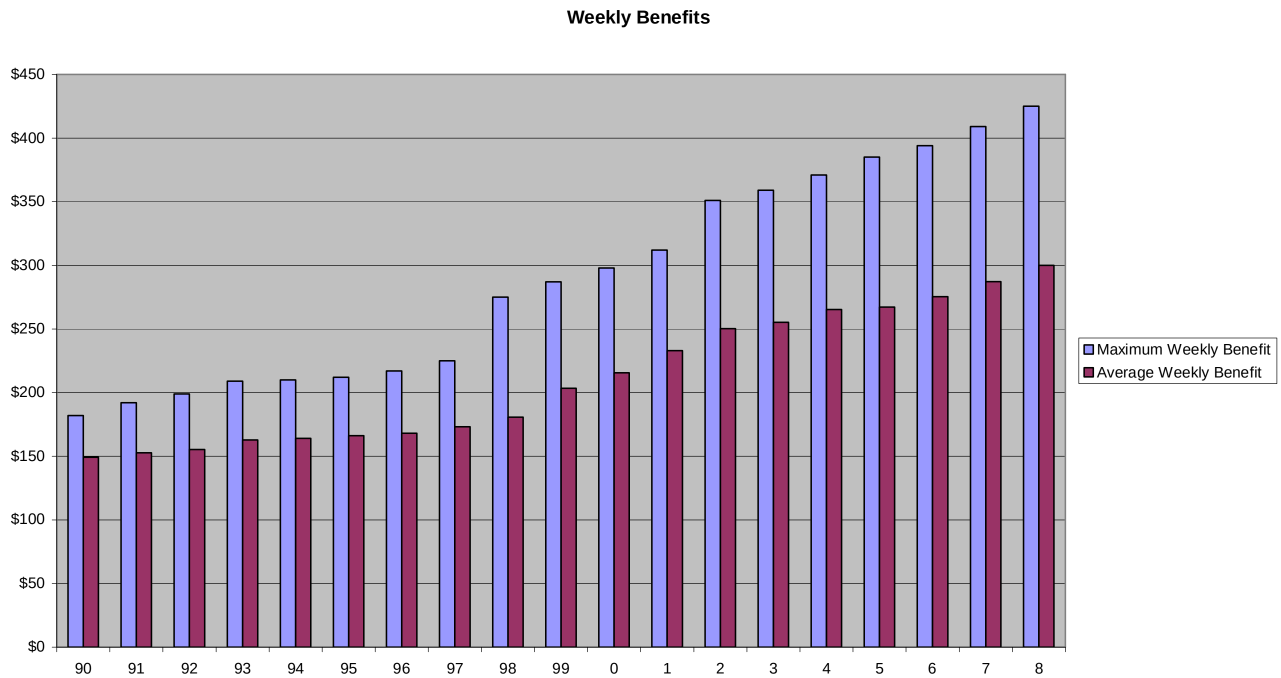
6. Projections show Vermont will need to take cash advances indefinitely once the fund is emptied, unless reforms are enacted.

7. Under current law, when Vermont takes cash advances to pay unemployment benefits the maximum benefit amount is frozen.

8. Action taken during the special session of the Legislature in June 2009 froze the maximum weekly benefit at $425 and increased the taxable wage base from $8,000 to $10,000. These are stop gap measures with significant reform still required.

How Did the Fund Get Into This Position?

By Vermont statute, benefits increase each year at the same rate as wages.



The maximum benefit increases each year at the same rate as the average wage. In 1998 and 2002 legislation passed increasing the maximum more than the COLA.

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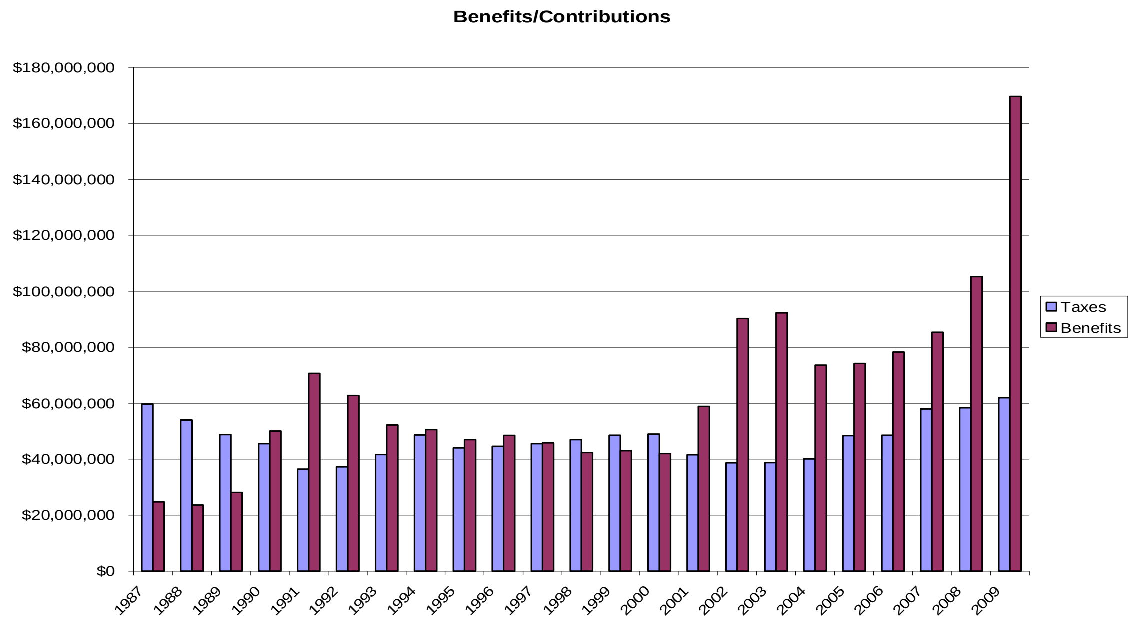
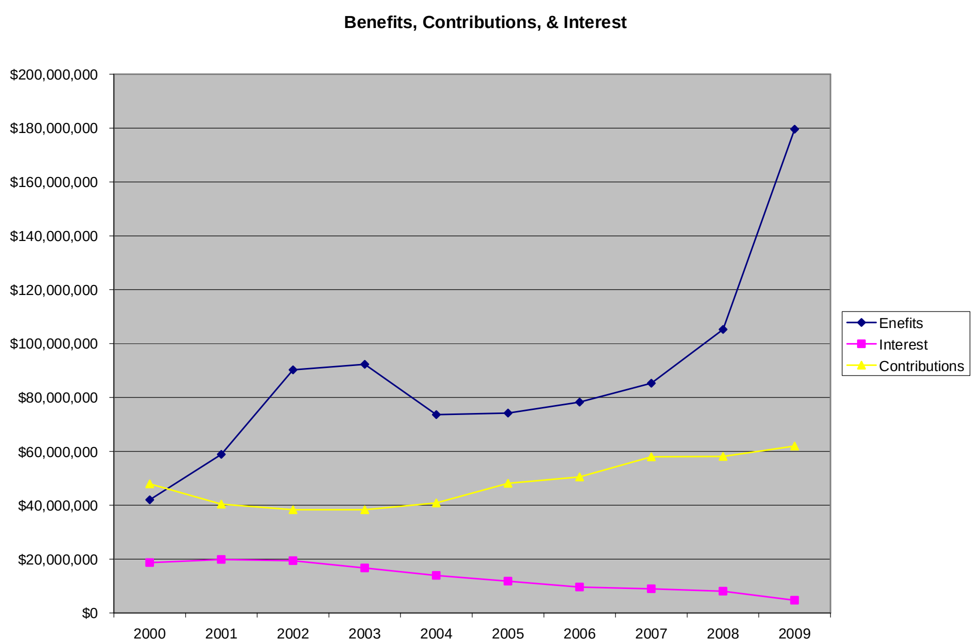
Revenue has been increasing but not fast enough to keep up with expenses.





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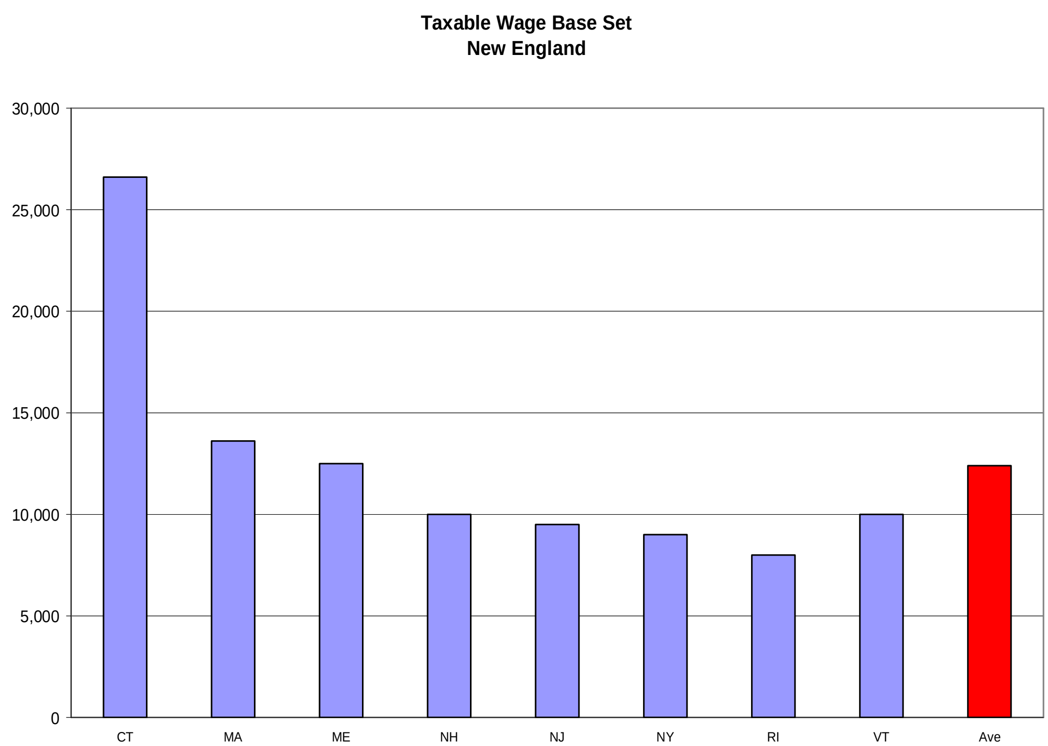
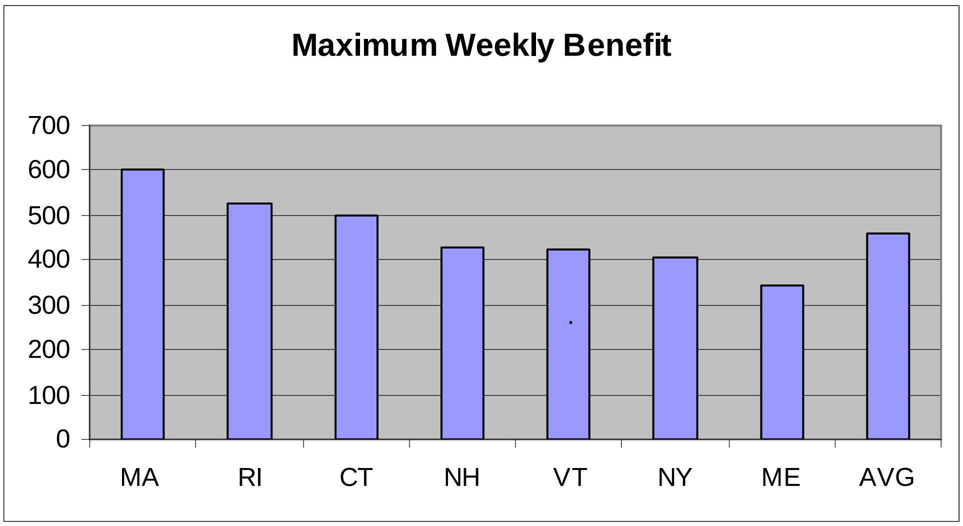
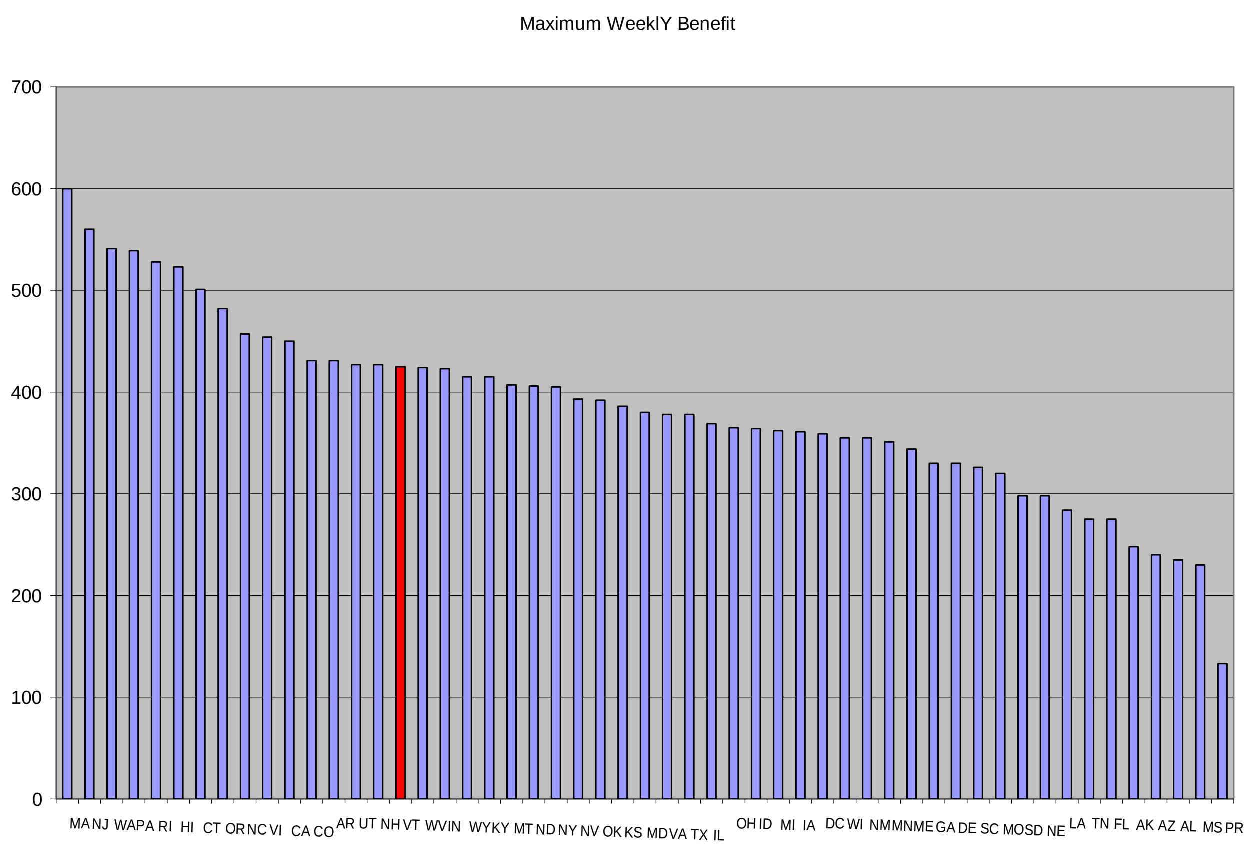
The amount of wages an employer pays taxes on in Vermont (taxable wage base) has not changed since 1983 until the Legislature increased it to $10,000 effective 1/1/10. The taxable wage is the first $10,000 of each employee's wages. When established at $8,000, the taxable wage base represented 50% of the average wage. Today it is 22% of the average wage. It is similar to NH and NY but below the regional average. It is lower than most states.



Weekly Benefit Amount

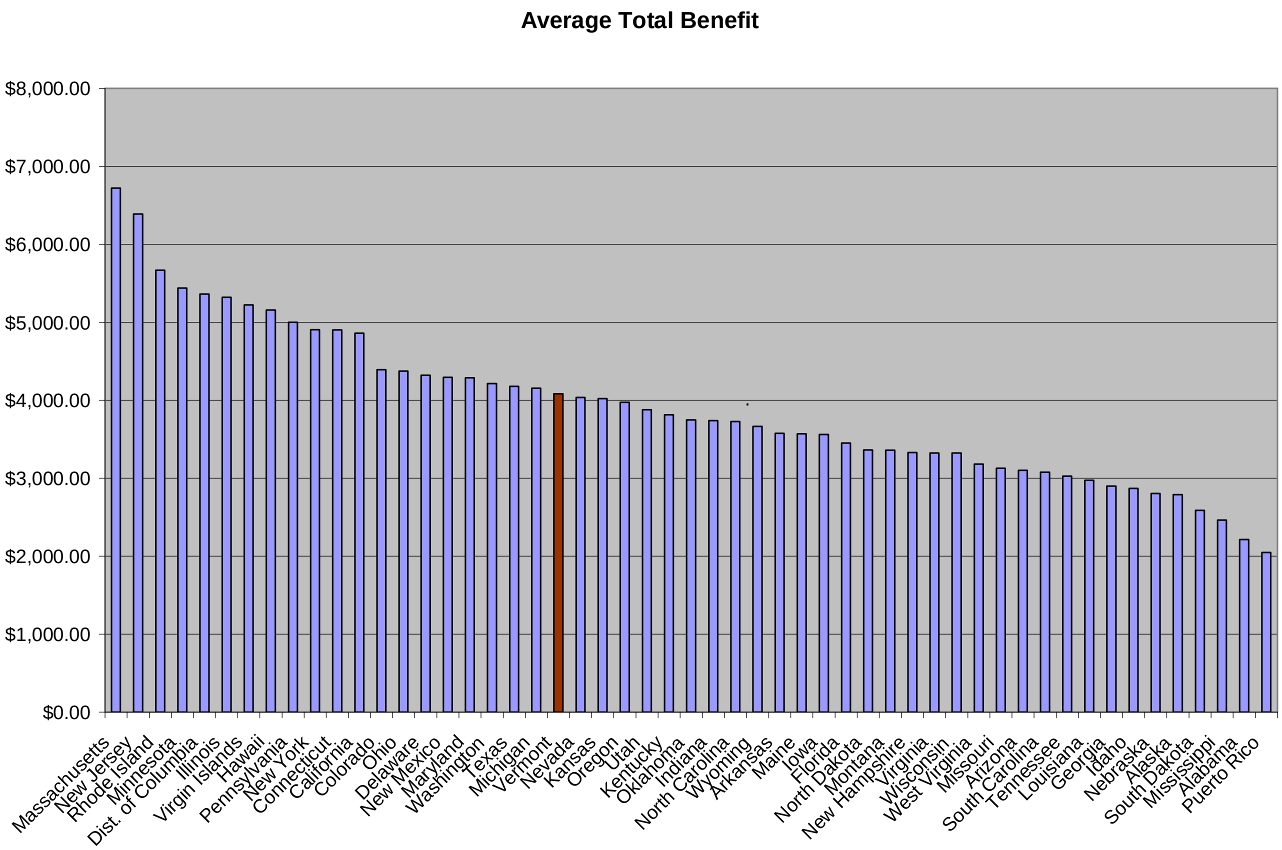
Vermont's maximum weekly benefit is comparable to New Hampshire and New York and about average for the region yet above average nationally. Vermont's maximum weekly benefit is the 16th highest in the nation..





Average Total Benefits

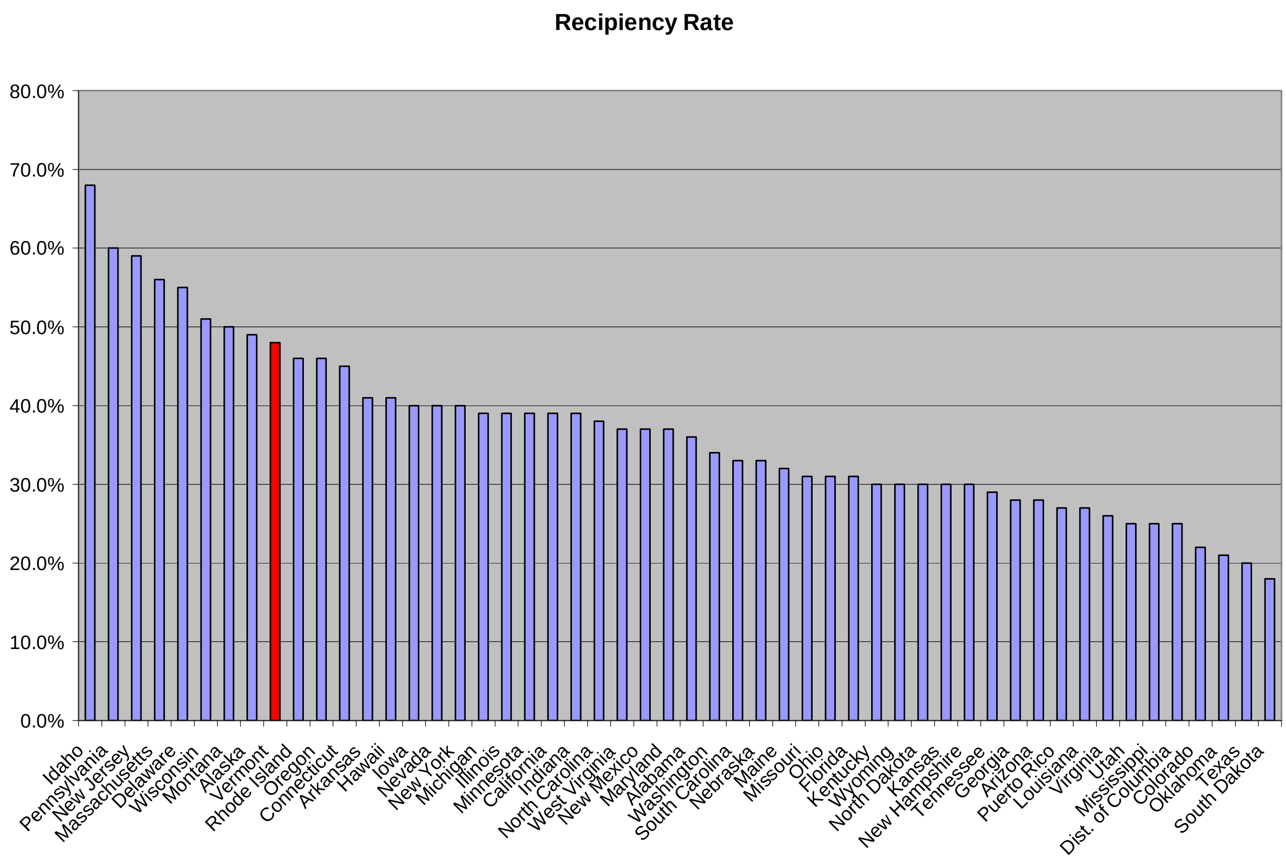
Compared to the nation, Vermont offers relatively high benefits. Vermont ranks 21rst in average total benefits.



The average total benefit is calculated by dividing total benefit payments by the number of recipients.

Recipiency Rate

In Vermont a higher percentage of the unemployed receive benefits than in most states. Vermont has the 9th highest recipiency rate.



The recipiency rate is calculated by dividing the number of people receiving benefits by total unemployed. Total unemployment includes workers with no work history, those denied unemployment benefits, and those workers who were formally self-employed.

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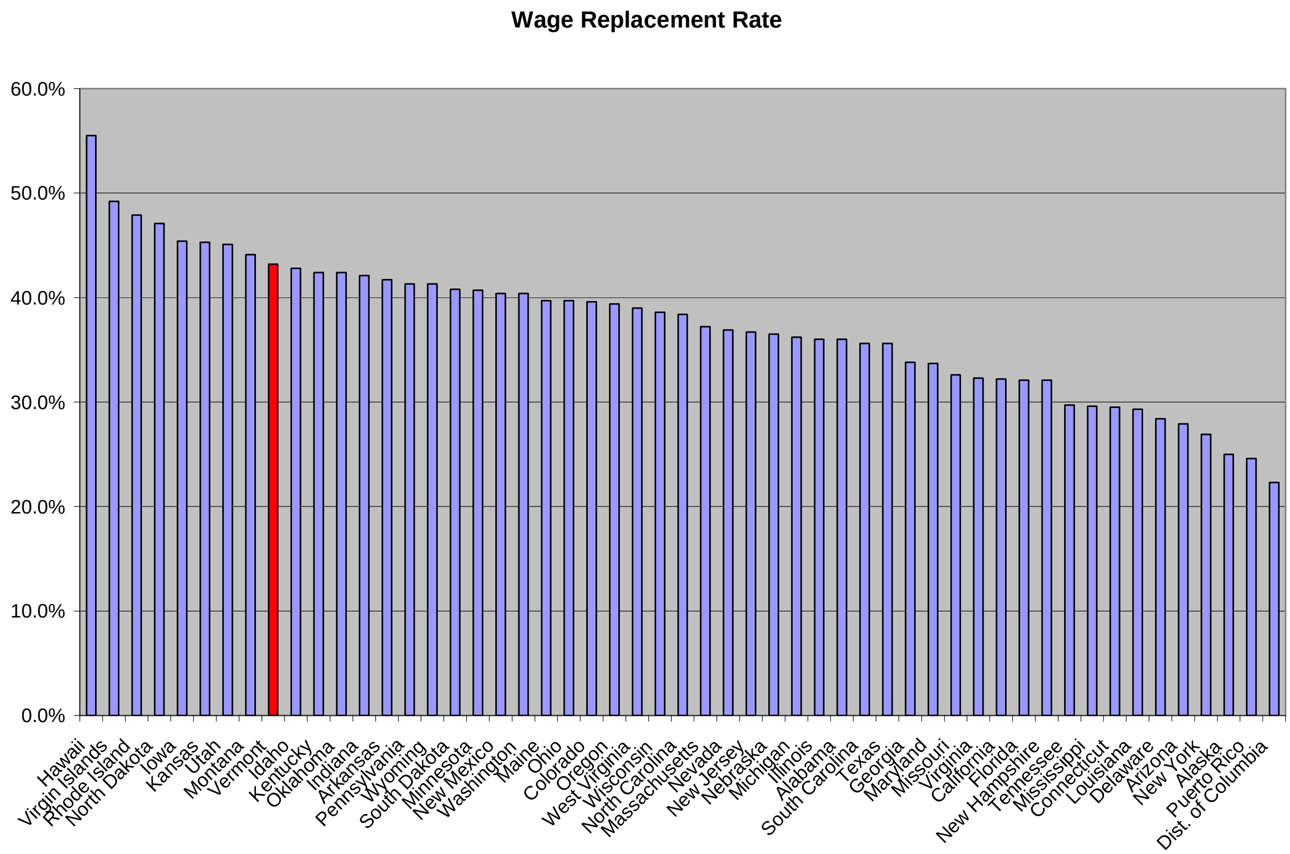
Wage Replacement Rate

Vermont replaces more of a worker's wages than most states at 57%. The national average is 50%. Vermont has the 9th highest wage replacement rate.



Wage replacement is calculated by dividing the average benefit by the average wage of all workers.

Tax Table

By July 2010, Vermont will be taxing employers at schedule V, the highest UI tax rates allowed by law. Vermont's UI tax system contains 5 schedules. When working correctly, the two schedules with lower tax rates are in effect during downturns and the two with higher rates are in effect after a downturn when the fund needs to be replenished. The middle schedule would theoretically maintain the fund if the economy remained stable at the long-term average unemployment. Currently schedule IV is in effect.

Rate Class	*From*	*To*	*I.*	*II.*	*III.*	*IV.*	*V.*
0	*00.00*	*00.00*	*0.4*	*0.6*	*0.8*	*1.1*	*1.3*
1	*00.01*	*05.00*	*0.5*	*0.7*	*0.9*	*1.2*	*1.5*
2	*05.01*	*10.00*	*0.6*	*0.8*	*1.1*	*1.4*	*1.8*
3	*10.01*	*15.00*	*0.7*	*1.0*	*1.4*	*1.7*	*2.1*
4	*15.01*	*20.00*	*0.8*	*1.2*	*1.7*	*2.0*	*2.4*
5	*20.01*	*25.00*	*0.9*	*1.4*	*2.0*	*2.3*	*2.7*
6	*25.01*	*30.00*	*1.1*	*1.7*	*2.3*	*2.6*	*3.0*
7	*30.01*	*35.00*	*1.4*	*2.0*	*2.6*	*2.9*	*3.3*
8	*35.01*	*40.00*	*1.7*	*2.3*	*2.9*	*3.2*	*3.6*
9	*40.01*	*45.00*	*2.0*	*2.6*	*3.2*	*3.5*	*4.0*
10	*45.01*	*50.00*	*2.3*	*2.9*	*3.5*	*3.8*	*4.4*
11	*50.01*	*55.00*	*2.6*	*3.2*	*3.8*	*4.1*	*4.8*
12	*55.01*	*60.00*	*2.9*	*3.5*	*4.1*	*4.5*	*5.2*
13	*60.01*	*65.00*	*3.2*	*3.8*	*4.4*	*4.9*	*5.6*
14	*65.01*	*70.00*	*3.5*	*4.1*	*4.7*	*5.3*	*6.0*
15	*70.01*	*75.00*	*3.8*	*4.4*	*5.0*	*5.7*	*6.4*
16	*75.01*	*80.00*	*4.1*	*4.7*	*5.3*	*6.1*	*6.8*
17	*80.01*	*85.00*	*4.4*	*5.0*	*5.6*	*6.5*	*7.2*
18	*85.01*	*90.00*	*4.7*	*5.3*	*5.9*	*6.9*	*7.6*
19	*90.01*	*95.00*	*5.0*	*5.6*	*6.2*	*7.3*	*8.0*
20	*95.01*	*100.00*	*5.4*	*5.9*	*6.5*	*7.7*	*8.4*

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What is the Solution?

The following goals drive this proposal:

- ü Return the trust fund to the black as soon as feasible.
- ü Return the fund to adequate level before the next recession to avoid falling back into debt.
  - o Adequacy defined as $300 million +.
- ü Avoid large tax increases during the recession, phase in increases.
  - o Keep the taxable wage base as low as possible.
- ü Minimize borrowing:
  - o To minimize interest expenses.
  - o To minimize increased FUTA tax increases.
- ü Maintain benefits at or above national averages.
- ü Address employers that annually pay in less in contributions than their employees annually receive in benefits (negative balance employers).
- ü Address seasonal unemployment.

If adopted in its entirety, the proposal achieves the following outcomes:

- ü The trust fund is in the black by 2015.
- ü The fund balance will exceed $200 million by 2018 and on the way to an adequate level.
- ü Tax increases are phased in over four years with steeper increases as the economy should be in recovery.
- ü Interest payments are limited to 5 years, with the maximum borrowing of $136 million.
- ü FUTA tax increases are limited to 4 years.
- ü The proposal addresses seasonal workers and negative balance employers.
- ü Benefits remain as or above national averages.
- ü Indexing taxable wage base increases to benefit increases helps assure the fund remains solvent in the future.

An equitable solution must include both revenue and expense changes.

I) Contribution adjustments:

1) Increase Employer Contributions to the Trust Fund: Phase in taxable wage base (TWB) increases over four years starting in calendar year 2010. The Legislature has already increased the TWB from $8,000 to $10,000 effective January 1, 2010. We are recommending continued phased in increases to the TWB as follows:

From $10,000 to $12,000 in 2011

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From $12,000 to $15,000 in 2012.
From $15,000 to $18,000 in 2013.

The already enacted Legislative change will increase contributions by $14 million in 2010. The additional increases will generate $28 million in 2011, $22 million in 2012 and $20 million in 2013 assuming employment does not decline beyond current forecast. This is a total of $84 million over a four year period.

This proposal indexes taxable wage base to the growth in the average wage when the contribution rate returns to schedule III of the tax tables. We also propose adding a statutory trigger to reduce TWB tied to the health of the fund. Currently, as the fund grows, tax schedules are adjusted downward. However, to avoid the fund growing beyond amounts needed to sustain solvency through future recessions, our proposal includes a mandatory trigger to reduce TWB to $16,000 when the contribution rate returns to schedule I of the tax tables.

2) Do not relieve an employer from charges to their experience rating when that employer is non-responsive to initial requests for information from the Department and if that employer fails to participate in subsequent fact finding or appeals. Presently, if benefits have been awarded to a claimant because information provided indicated eligibility and we later find out from the employer that benefits should not have been awarded, we must relieve the employer's experience rating from any charges associated with the claim. This results in charges to the trust fund, but not to the employer's experience rating. Typically, the information supporting denial of benefits is provided by the employer well after the initial inquiry from the Department. This would place the burden on the employer to return initial requests timely and participate in all applicable appeals. As it is today, there is no financial burden for a non-responding/non-participating employer.

3) Charge a fee to reimbursable employers. Presently, reimbursable employers are billed for benefits paid to their workers. Reimbursable employers include government entities and eligible non-profit organizations. The benefits are effectively borrowed from the trust fund costing the system money through lost interest when the fund has a positive balance or increased interest when the fund is insolvent. We propose adding a 1% fee to all charges to reimbursable employers that would be deposited into the trust fund to help ameliorate the cost to tax paying employers. This would cost public and non-profit employers an estimated $64,000 a year based on 2008 data.

II) Benefit adjustments:

1) Reduce the maximum weekly benefit from $425 to $400. Nationally the base maximum weekly benefit ranges from a low of $235 in MS to a high of $628 in MA. In New England the base maximum weekly benefits range from $628 in Massachusetts to $344 in Maine. This change would keep Vermont with the 24th highest maximum weekly benefit of all states. This proposal would also include freezing the automatic

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increase in the maximum weekly benefit amount until tax schedule III is reached. The lower maximum weekly benefit will help address the increased projected borrowing. **This reduction will save approximately $5 million in 2010.**

In addition, the maximum weekly benefit must be capped at $400 for the duration of borrowing. Failure to cap will result in decreasing efforts to return the fund to solvency in a reasonable period of time and would contribute to increased loss of FUTA credits.

2) Modify the weekly benefit amount to be based on four quarters of earnings and not the current two. Currently the weekly benefit amount (WBA) is calculated by dividing the total of the 2 highest quarters of wages in the base period by 45. This results in every WBA being based on just 2 quarters of employment. This means that someone working 2 quarters a year in theory would receive the same WBA as someone who worked all four quarters if the same wages were made in each quarter worked. Our new proposal calculates the WBA taking into consideration employment throughout the entire base period by calculating the average of all four quarters and dividing the average by 23 to get the same 57% of wage replacement that exists today. This also addresses the concern for certain seasonal workers who are unemployed annually versus workers who have permanently lost their job. This approach is a more accurate reflection of wages earned and ties unemployment insurance to wages earned.

3) Limit eligibility to workers with a significant attachment to the labor market by eliminating one of the three methods to determine a weekly benefit amount. The majority of claimants are found eligible for a weekly benefit amount using the first method, which is all wages paid during the first four of the last five completed quarters. (If a benefit year were established today, we would use wages paid during quarters ending 2/08 through 1/09.) We propose eliminating the 3rd method, which was used in 3% of claims filed in FY 08. Vermont is one of only two states that has 3 methods to find an individual monetarily eligible for UI benefits, whereas 16 (Maine, New York, and New Hampshire included) other states use the two methods. **Items 2 & 3 will save approximately $11.5 million annually.**

4) A person fired for misconduct is disqualified from receiving benefits until they earn 4 times their weekly benefit amount. Presently if someone is fired for misconduct, defined as "substantial disregard of an employer's interest," they can still collect unemployment benefits for the full 26 weeks after a 9 week delay. Many employers believe an employee should be disqualified from receiving benefits for misconduct. This change will result in the worker needing to earn wages and become unemployed through no fault of their own, which is the current laws of most states, as well as all border states. **This reduction will save $2.9 million annually.**

5) Prohibit workers fired for gross misconduct from using the wages paid by that employer to qualify for benefits. Currently workers separated for serious (gross) misconduct (such as theft or violence at the workplace) must return to work and earn

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wages 6 times their weekly benefit amount. This change proposes an additional consequence for serious misconduct by eliminating the use of such wages from computation of the weekly benefit amount.

6) Reduce earnings disregard from 30% to 20%. Presently, if a person is working part-time, they can earn up to 30% of their weekly benefit amount and see no reduction in benefits. This would reduce that to 20% of their weekly benefit amount. Example: An individual with a weekly benefit amount of $425 earning $300 would receive $252 in UI; with this change, the UI payment would reduce to $210. **This change will save $877,000 annually.**

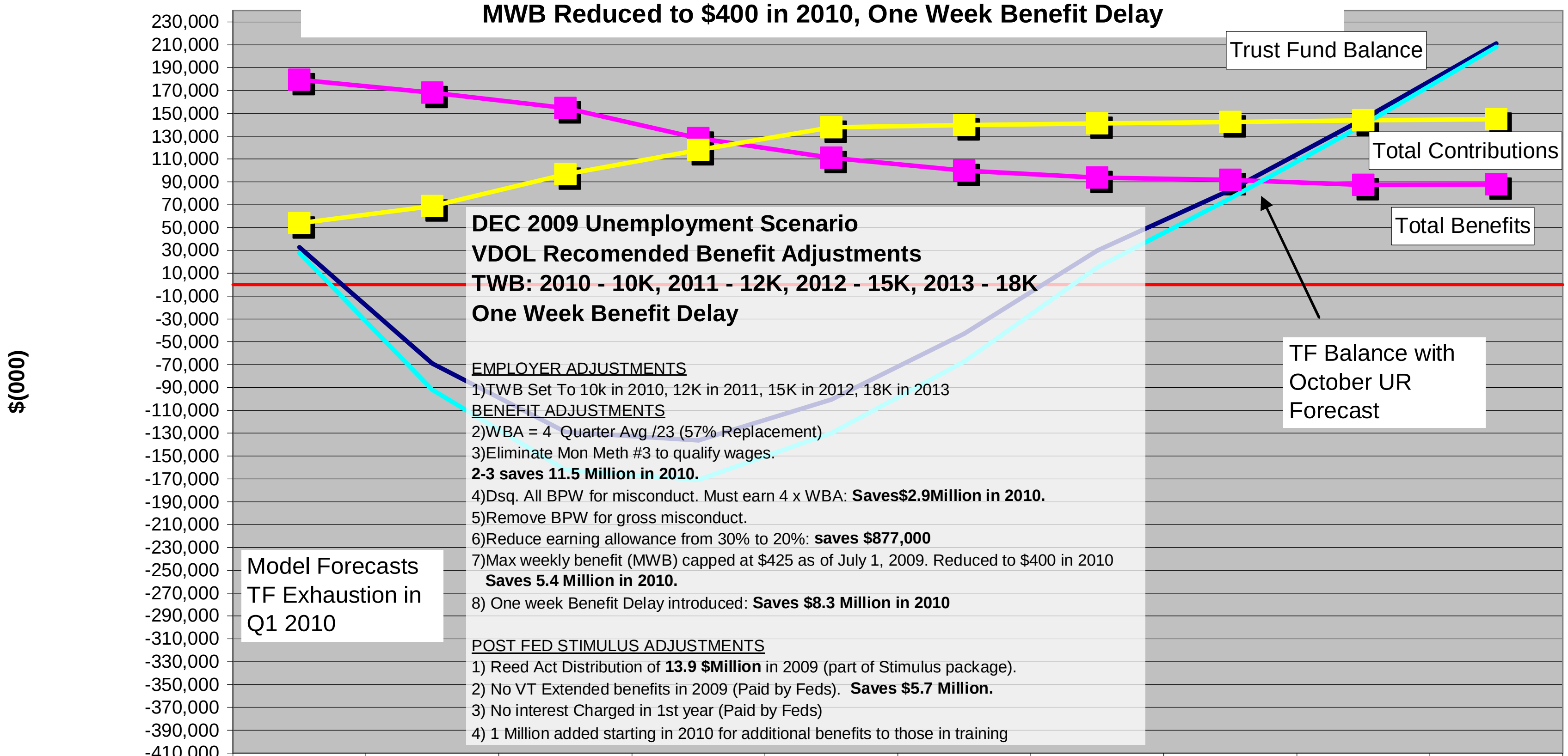
7) Re-institute the one week waiting period for benefits that was eliminated in 2000. This would require laid off workers to wait one week before filing for benefits. We are one of only 13 states with no waiting period. Data suggests unemployed workers seek new work faster if there is a waiting period. Further, a majority of employers pay in arrears, meaning most workers receive their last paycheck during that first week of filing. **This change will save $8.3 million in 2010 but less in subsequent years.**

8) Order repayment of benefits by claimants when those benefits have been erroneously awarded. Presently, with few exceptions, the only time we recoup previously paid benefits is if the erroneous payment resulted from misrepresentation by the claimant. This provision would require a claimant to repay those benefits regardless. It would also result in the trust fund being reimbursed for benefits improperly paid. This is tied to #2 above in that we are essentially "requiring" employers to participate timely in requests for information.

9) Remove the option enabling claimants to collect UI while receiving severance pay. Presently employers may opt to allow their laid off employees to receive benefits during a period they are receiving severance pay; essentially double-dipping. Disqualifying severance pay, the same as wages in lieu of notice and vacation pay are handled, will ultimately result in the claimants having a longer duration of income (allocated severance pay followed by unemployment benefits) should subsequent employment not be found. Further, employers who are closing or moving out of state will not be paying future increased taxes which puts further strain on the fund.

12/23/2009

Vermont UI Trust Fund Projection: Dec 2009 Unemployment Scenario - VDOL Rec Benefit Adj. TWB = 10K in 2010, 12K in 2011, 15K in 2012 and 18K in 2013, MWB Reduced to $400 in 2010, One Week Benefit Delay



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Trust Fund Balance	32,777	-69,023	-128,962	-136,311	-100,591	-42,811	29,748	83,050	145,144	211,142
Total Benefits	179,293	167,968	154,605	128,198	111,167	99,935	93,624	91,748	87,308	87,857
Total Contributions	53,831	68,786	96,604	117,887	137,698	139,680	141,266	142,480	143,908	144,911
Balance Oct VDOL	27,821	-92,031	-162,091	-170,824	-129,957	-67,242	15,208	75,684	139,917	208,098

SOURCE: VDOL Benefit Finance Model, December, 2009

Dec Forecast Scenario: VDOL Recommended Benefit Adj. TWB+ 10K - 12K 15K - 18K,

1 week benefit Delay

12/23/2009

Year	Interest Earned (000)	Trust Fund Balance (000)	Regular Benefits (000)	Extended Benefits (000)	Total Benefits (000)	Total Contributions (000)	Taxable Wages ($Mil.)	Total Wages ($Mil.)
2009	3,926	32,777	179,293	0	179,293	53,831	1,874	8,037
2010	293	-69,023	159,785	8,183	167,968	68,786	2,270	8,172
2011	0	-128,962	151,326	3,279	154,605	96,604	2,670	8,363
2012	0	-136,311	125,346	2,852	128,198	117,887	3,259	8,611
2013	0	-100,591	111,167	0	111,167	137,698	3,807	8,917
2014	0	-42,811	99,935	0	99,935	139,680	3,863	9,223
2015	451	29,748	93,624	0	93,624	141,266	3,907	9,522
2016	2596	83,050	91,748	0	91,748	142,480	3,941	9,816
2017	5547	145,144	87,308	0	87,308	143,908	3,981	10,127
2018	8884	211,142	87,857	0	87,857	144,911	4,009	10,430

Year	TUR	Wage Growth	Labor Force Growth	Taxable Wage Base	Max Weekly Benefit	Tax Rate Schedule
2008	4.90	3%	0%	8,000	409	4
2009	7.00	2%	0%	8,000	425	4
2010	7.40	2%	0%	10,000	400	5
2011	7.00	2%	0%	12,000	400	5
2012	5.90	3%	0%	15,000	400	5
2013	5.20	3%	0%	18,000	400	5
2014	4.70	3%	0%	18,000	400	5
2015	4.40	3%	0%	18,000	400	5
2016	4.30	3%	0%	18,000	400	5
2017	4.10	3%	0%	18,000	400	5
2018	4.10	3%	0%	18,000	400	5

Year	Interest Rate %	Cash Advance Amt (Mil.)	Interest Payable September 30 (Mil.)	FUTA Credit Reduction %	FUTA Credit Reduction Payment Jan 1 (Mil.)	Avg Cost of FUTA Credit Reduction per Ins. Emp.	Avg. Cost per Ins Emp (except FUTA)	Avg. Cost per Ins Emp (Inc. FUTA & Int.)
2009	4.62	0.0	0.0	0	0.0	0.0	256.30	256.30
2010	4.62	69.0	0.9	0	0.0	0.0	328.58	328.58
2011	4.78	129.0	4.7	0.3	0.0	0.0	459.94	459.94
2012	4.7	136.3	6.5	0.6	5.9	27.9	555.99	583.90
2013	4.68	100.6	5.9	0.9	11.9	56.0	645.98	701.97
2014	4.63	42.8	3.6	1.2	18.2	85.0	652.57	737.59
2015	4.73	0.0	1.5	0	24.5	114.3	658.41	772.75
2016	4.91	0.0	0.0	0	0.0	0.0	663.52	663.52
2017	5	0.0	0.0	0	0.0	0.0	669.06	669.06
2018	5.06	0.0	0.0	0	0.0	0.0	673.73	673.73
TOTALS		**136.3**	**23.0**		**60.6**			